

78B-6-102 Legislative intent and findings -- Best interest of child -- Interests of each party.

- (1) It is the intent and desire of the Legislature that in every adoption the best interest of the child should govern and be of foremost concern in the court's determination.
- (2) The court shall make a specific finding regarding the best interest of the child, taking into consideration information provided to the court pursuant to the requirements of this chapter relating to the health, safety, and welfare of the child and the moral climate of the potential adoptive placement.
- (3) The Legislature finds that the rights and interests of all parties affected by an adoption proceeding must be considered and balanced in determining what constitutional protections and processes are necessary and appropriate.
- (4) The Legislature specifically finds that it is not in a child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state. Nothing in this section limits or prohibits the court's placement of a child with a single adult who is not cohabiting as defined in this part.
- (5) The Legislature also finds that:
 - (a) the state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children;
 - (b) an unmarried mother, faced with the responsibility of making crucial decisions about the future of a newborn child, is entitled to privacy, and has the right to make timely and appropriate decisions regarding her future and the future of the child, and is entitled to assurance regarding the permanence of an adoptive placement;
 - (c) adoptive children have a right to permanence and stability in adoptive placements;
 - (d) adoptive parents have a constitutionally protected liberty and privacy interest in retaining custody of an adopted child;
 - (e) an unmarried biological father has an inchoate interest that acquires constitutional protection only when he demonstrates a timely and full commitment to the responsibilities of parenthood, both during pregnancy and upon the child's birth; and
 - (f) the state has a compelling interest in requiring unmarried biological fathers to demonstrate commitment by providing appropriate medical care and financial support and by establishing legal paternity, in accordance with the requirements of this chapter.
- (6)
 - (a) In enacting this chapter, the Legislature has prescribed the conditions for determining whether an unmarried biological father's action is sufficiently prompt and substantial to require constitutional protection.
 - (b) If an unmarried biological father fails to grasp the opportunities to establish a relationship with his child that are available to him, his biological parental interest may be lost entirely, or greatly diminished in constitutional significance by his failure to timely exercise it, or by his failure to strictly comply with the available legal steps to substantiate it.
 - (c) A certain degree of finality is necessary in order to facilitate the state's compelling interest. The Legislature finds that the interests of the state, the mother, the child, and the adoptive parents described in this section outweigh the interest of an unmarried biological father who does not timely grasp the opportunity to establish and demonstrate a relationship with his child in accordance with the requirements of this chapter.
 - (d) The Legislature finds no practical way to remove all risk of fraud or misrepresentation in adoption proceedings, and has provided a method for absolute protection of an unmarried biological father's rights by compliance with the provisions of this chapter. In balancing the rights and interests of the state, and of all parties affected by fraud, specifically the child, the

adoptive parents, and the unmarried biological father, the Legislature has determined that the unmarried biological father is in the best position to prevent or ameliorate the effects of fraud and that, therefore, the burden of fraud shall be borne by him.

- (e) An unmarried biological father has the primary responsibility to protect his rights.
 - (f) An unmarried biological father is presumed to know that the child may be adopted without his consent unless he strictly complies with the provisions of this chapter, manifests a prompt and full commitment to his parental responsibilities, and establishes paternity.
- (7) The Legislature finds that an unmarried mother has a right of privacy with regard to her pregnancy and adoption plan, and therefore has no legal obligation to disclose the identity of an unmarried biological father prior to or during an adoption proceeding, and has no obligation to volunteer information to the court with respect to the father.

Renumbered and Amended by Chapter 3, 2008 General Session